

C. REMARKS

Claims 1-4 and 7-13 are pending in the application. Claims 1-3 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,378,053 to Patient, et al. Claim 4 was rejected under 35 U.S.C. 103 as being unpatentable over Patient, et al. in view of U.S. Patent 5,589,743 to King, as applied to claim 5 and further in view of Wong, et al.. Claims 7-10 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,627,438 to Barrett in view of Japanese Patent JP-11275708 (using U.S. Patent 6,120,115 to Manabe as an English equivalent). Claims 11-13 were rejected under 35 U.S.C. as being unpatentable over Barrett in view of other cited references.

The Examiner has objected to an error on page 5, line 11 of the specification. The Examiner has rejected claim 12 under 35 U.S.C. 112 for reciting the limitation "said braking requirement." Applicants wish to thank the Examiner for pointing out the errors and have amended the specification and claim 12. Reexamination and reconsideration of the nonallowed claims are respectfully requested.

The Examiner has objected to the amendment filed 10/08/2002 under 35 U.S.C. 132 because it introduces new matter into the disclosure. In similar fashion, the Examiner has rejected claims 1-13 as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Applicants respectfully submit that the Examiner has not given the word "only" the proper interpretation as defined in the originally filed specification, claims and drawings.

In *Hockerson-Halbestadt, Inc. v. Avia Group International, Inc.*, 7/27/2000, No. 99-1505, the United States Court of Appeals for the Federal Circuit stated:

"Claim construction analysis begins with the claim language itself."

See *Karlin Tech. Inc. v. Surgical Dynamics, Inc.*, 177 F3d 968, 971, 50 USPQ2d 1465, 1467 (Fed. Cir. 1999); *Reinshaw PLC v. Marposs Societa per Azioni*, 158 F3d 1243, 1248, 48 USPQ2d 1117, 1120 (Fed. Cir. 1998).

"As a starting point, the court gives claim terms their ordinary and accustomed meaning as understood by one of ordinary skill in the art."

See *Hoechst Celanese Corp. v. BP Chems. Ltd.*, 78 F3d 1575, 1578, 38 USPQ2d 1126, 1129 (Fed. Cir. 1996).

A disclosure of a specification includes not only the claims and specification, but also includes the drawings. In Figures 1-3, the first axle (noted as item 10), exclusively and solely has electrical braking. Page 2, lines 15-17 of the specification reads: "It is desirable to provide an electric or HEV that can eliminate the requirement for hydraulic braking on at least one axle." Furthermore, page 2, lines 21-26 reads: "To make manifest the above delineated and other manifold desires, a revelation of the present invention is brought forth. A preferred embodiment of the present invention has a first wheeled axle which is driven by an electric motor. The electric motor also functions as a generator to provide for regenerative braking."

Within those two-noted paragraphs, Applicants have stated a desire of the invention is to provide an electric or hybrid electric vehicle which eliminates the requirement for hydraulic braking on at least one axle. It is stated that the present invention, which makes manifest the above-noted desire, has a first wheeled axle driven by an electric motor. Based on these two paragraphs, the only reasonable conclusion is that the first axle is solely braked by an electric motor.

Further buttressing the above interpretation can be found from reading page 2, lines 12-15 of the specification: "To bestow the maximum benefit which can be provided by an electric or HEV to the greatest amount of people, it is desirable that, wherever possible, components be eliminated to accordingly lower the cost of such vehicles." With that preamble appearing before the statement that it is desirable to provide an electric or HEV that can eliminate the requirement for hydraulic braking on at least one axle, the reasonable interpretation is that "only" includes its exclusive one-of-a-kind definition.

Furthermore, page 3, lines 9-11 of the specification reads: "A feature of the present invention is that there are no friction service brakes on the first wheeled axle." Therefore, since there are no friction brakes, the first axle cannot be braked at any time by friction brakes.

Page 3, lines 12-15 reads: "The vehicle configuration of the present invention serves to reduce vehicle brake system complexity and weight and can be utilized whether the first wheeled axle is the front or the rear axle of the vehicle." Having two separate types of braking systems adds weight to a vehicle.

In the summary of the invention, page 3, lines 12-13, Applicants stated that one of the purposes of the invention is to reduce brake system complexity and weight. Accordingly, to interpret "only" as meaning a time limitation rather than an

apparatus limitation is beyond a merited interpretation by anyone familiar with the claims, specification or the drawings.

The definition of "only", found in Webster's Ninth New Collegiate Dictionary is: "a: as a single fact or instance and nothing more or different"...

Applicants submit that the specification, claims and drawings fully discloses the term "exclusively" and that no new matter has been added to the application.

Applicants feel that the term "exclusively" is repetitive, but has been added solely to clarify the ambiguities in relation to Applicants' invention with the cited prior art.

In the amendment filed 10/8/2002, claim 4 was amended to include the limitations of canceled dependent claims 5 and 6. The Examiner rejected claim 4 as being unpatentable over Patient et al. in view of King and further in view of Wong et al. Applicants respectfully submit that Wong et al. is not analogous to Applicants' invention. Wong et al. relates to a transformerless low voltage switching power supply, which in column 1, relates to power supplies found in certain TV receivers as described in lines 9-10. In sharp contrast, Applicants disclose using a thermal resistor which dissipates the heat associated with a braking of the vehicle. The energy involved in thermal dissipation for vehicle braking is several orders of magnitude greater than thermal dissipation in a low voltage power supply. Accordingly, Applicants respectfully submit that Wong et al. is not analogous to Applicants' invention.

Even knowing the non-analogous nature of Wong et al., none of the combined references teach or disclose a method of braking an electric vehicle which has a first wheeled axle exclusively electrically driven wherein the first wheeled axle has only electric regenerative brakes.

Applicants have shown that the Examiner's rejections are respectfully traversed. As the application is otherwise in condition for allowance, such action is respectfully requested. If the application is found not allowable, Applicants respectfully request the acceptance of the amendment for purposes of appeal.

Respectfully submitted,



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